

Message Text

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ACTION EB-07

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TO SECSTATE WASHDC 4247

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E.O. 11652:N/A

TAGS: EAIR, UK

SUBJ: CIVAIR: U.K. COURT DECISION ON LAKER

REF: LONDON 2312, 2/12/76; LONDON 4099, 3/16/76

1. U.K. HIGH COURT RENDERED DECISION JULY 30 RULING IN LAKER'S FAVOR THAT SECRETARY OF STATE FOR TRADE WAS NOT ENTITLED TO CANCEL LAKER'S SKYTRAIN LICENSE AS HE SAID HE INTENDED TO DO IN WHITE PAOER ON CIVIL AVIATION OOLICY ISSUED FEBRUARY 1976 (REFTELS).

2. DEOT OF TRADE IS CONSIDERING APPEAL OF HIGH COURT RULING WHICH SINCE COURT LUST ENDED ITS SESSION COULD NOT BE HEARD UNTIL THE AUTUMN AT THE EARLIEST. COURT RULING, OF COURSE, CALLS INTO QUESTION OTHER PARTS OF THE WHITE PAPER AS WELL AS LAKER DECISION. IN THIS REQARD, IT HAS BEEN REPORTED THAT BRITISH CALEDONIAN MANAQEMENT SERIOUSL CONSIDERING CHALLENGING THE DOT ON ITS ANNOUNCED POLICY OF CREATING NEW "SPHERES OF INFLUENCE" FOR BA AND CALEDONIAN THRU ROUTE SWAOS.

3. COMMENT: IN CONVERSATION WITH LORD BOYD-CARPENTER, CHAIRMAN, AND ROBIN GODDISON, DEPUTY CHAIRMAN OF CIVIL AVIATION AUTHORITY, AUQ 2, THEY AQREED THAT COMPLETION OF THE ABOEAL OROCESS IN THIS CASE WOULD TAKE AS MUCH AS 18 MONTHS. BOTH STATED THEV WERE NOT SURBRISED BY THE LIMITED OFFICIAL USE

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DECISION. CAA'S ATTORNEYS ALWAYS THOUGHT THAT DOT HAD

EXCEEDED ITS AUTHORITY UNDER THE U.K. CIVIL AVIATION ACT OF 1971 WHEN IT ISSUED THE WHITE PAPER SINCE WHITE OAPER CLEARLY WAS A "DIRECTION" OF WHAT ACTIONS CAA MUST TAKE RATHER THAN THE "GUIDANCE" DOT IS AUTHORIZED TO ISSUE UNDER THE 1971 ACT. THEY ALSO AGREED WITH STATEMENT MADE BY THE HIGH COURT JUDGE FOLLOWING HIS ORDER THAT HIS DECISION MIGHT BE ".... SOMETHING OF A PVRRHIC VICTORY FOR MR. LAKER BECAUSE THE DEPARTMENT OF TRADE MIGHT BE ABLE TO PERSUADE THE GOVERNMENT TO PASS THE NECESSARY AMENDING LEGISLATION TO HAVE THE LICENSE (LAKER'S) REVOKED."

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4. SECSTATE FOR TRADE DELL TOLD ECOMIN HE HAS NOT DECIDED WHETHER TO APPEAL AND AS OF THIS MOMENT HAS AN OPEN MIND ON THE QUESTION.

5. REGARDING LAKER'S APPLICATION FOR SKYTRAIN AUTHORITY IN THE US, AS WE UNDERSTAND IT THIS ISSUE IS NOW DORMANT SINCE CAB WITHDREW THE OPINION IT HAD SENT TO THE PRESIDENT IN VIEW OF UK POLICY PRONOUNCEMENTS. WE ALSO UNDERSTAND THAT THE US SPOKESMAN AT THE INFORMAL AVIATION DISCUSSIONS AUG. 20-22, 1975, ASSURED THE BRITISH THAT SHOULD THEY DECIDE IN THE FUTURE THAT SKYTRAIN SHOULD OPERATE, THE US WOULD GIVE PROMPT ATTENTION TO THE ISSUANCE OF A FOREIGN AIR CARRIER PERMIT TO LAKER AT THAT TIME. WHILE IT IS NOT AT ALL CLEAR THAT THE FINAL RESOLUTION OF THE LAKER CASE IN THE UK WILL IN THE NEAR FUTURE OR, IN FACT, EVER, RESULT IN THE REVIVAL OF THE BRITISH REQUEST FOR A CAB LICENSE FOR LAKER, SHOULD THAT HAPPEN WE WISH TO CALL THE DEPARTMENT'S ATTENTION TO THE EMBASSY'S VIEWS EXPRESSED IN PARA 4 OF LONDON TEL 10654 (7/11/75). THAT MESSAGE UNDERLINED THE FACT THAT THE LONG DELAY IN CONSIDERING THE LAKER APPLICATION HAD BECOME A SERIOUS IRRITANT IN OUR BILATERAL AVIATION RELATIONS WITH THE UK. AT THAT TIME WE RECOMMENDED THAT QUICK APPROVAL OF A PERMIT FOR LAKER WITH WHATEVER CONDITIONS WERE NECESSARY TO MAKE IT ACCEPTABLE WOULD GO A LONG WAY TOWARD IMPROVING AVIATION RELATIONS WITH THE UK. THE EMBASSY CONTINUES TO SUPPORT THAT COURSE OF ACTION IF AND WHEN THE LAKER ISSUE IS AGAIN PUT BEFORE US.

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